

### **REMARKS/ARGUMENTS**

Claims 9-12, 21-24, and 27-28 have been examined and rejected. Claims 1-8, 13-20, and 25-26 were previously withdrawn from consideration due to the election of group II. Accordingly, claims 9-12, 21-24, and 27-28 remain pending. Reconsideration and allowance of all pending claims are respectfully requested.

Claims 9-12, 21-24, and 27-28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,371,734 issued to Fischer in view of U.S. Patent No. 5,691,729 issued to Gutman et al. It is respectfully submitted that the rejection is improper and should be withdrawn. A prima facie case of obviousness under 35 U.S.C. 103(a) requires that each limitation be disclosed or suggested by at least one of the relied upon references.

This requirement has not been met for any of the rejected claims. The independent claims 9, 11, 21, 23, and 27-28 all require the measurement of receiver gain based on a measurement of signal strength within a receiver. Independent claims 9, 21, and 27 require that the measurement be made in a quiet period. Independent claims 11, 23, and 28 are directed to a multiple antenna receiver system and require that the measurement be made when the antenna connected to the receiver chain under test can be disconnected due to an indication of excellent reception quality. The independent claims further recite that the gain measurement is also based at a known noise level. The cited references do not disclose or suggest these features.

Fischer discloses a MAC protocol for wireless networks. The text cited in columns 16 and 17 of Fischer describes the operation of a modem and mentions a "received signal strength indication (RSSI) signal representing the energy of the received demodulated signal." This is in a sense the opposite of what the independent claims require since the recited measurement is not based on a received signal but is rather made during a quiet period when no received signal is expected.

The Gutman et al. patent is directed to aperture-to-receiver gain equalization in multi-beam receiving systems. The system measures noise level by use of a receiver sequentially coupled to each channel to listen for lowest signal levels during inactive intervals, over periods of time which may extend for hours. These lowest signal levels provide thresholds for each channel from which gain correction factors are developed. Gutman et al. do not remedy the deficiencies of the primary reference. Gutman et al. simply teach measuring noise level during an inactive interval. Neither Fischer nor Gutman et al. show or suggest measuring signal strength during upstream quiet period.

Independent claims 9, 11, 21, 23, and 27 are therefore submitted as allowable over the art of record. Claims 10, 12, 22, and 24 are allowable for at least the reason of their dependence from the allowable independent claims.

For the foregoing reasons, Applicants believe that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8694.

Respectfully submitted,



Cindy S. Kaplan  
Reg. No. 40,043

RITTER, LANG & KAPLAN LLP  
12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690  
Fax: 408-446-8691